



## Report Committee of Adjustment

**Filing Date:** April 11, 2023

**Hearing Date:** May 9, 2023

**File:** A-2023-0104

**Owner/  
Applicant:** FARZANA BAGHAM

**Address:** 72 Circus Crescent

**Ward:** WARD 6

**Contact:** Ellis Lewis, Planning Technician

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### Recommendations:

That application A-2023-0088 be refused.

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### Background:

The subject property is located within an unassumed subdivision (C02W16.003/21T-16008B). The owner/applicant constructed the below grade entrance without obtaining Minor Variance or Building Permit approval from the City. Upon staff review of the Minor Variance application, it was determined that there is a catch basin in the rear yard connected by a storm sewer pipe located in the interior side yard to the storm sewer infrastructure within the Circus Crescent right of way (Appendix A). The subject property and abutting properties drain into the catch basin located in the rear yard of the subject property. The location of the risers and landing of the below grade entrance are located directly above the storm sewer line. City Engineering Staff noted that the location and construction of the below grade entrance may damage the storm sewer pipe. Should there be any damage to the storm sewer pipe as a result of the construction of the below grade entrance, it may adversely impact drainage on the subject property and the abutting parcels that drain onto the rear yard catch basin. Moreover, the subdivision is currently unassumed and any damages to the storm sewer pipe may impact the assumption of the subdivision by the City from the developer. City staff have notified the developer that the owner/applicant of the subject property have constructed a below grade entrance above a storm sewer pipe, the owner/applicant of the subject property may be responsible for any damages or repair to the storm sewer pipe.

Should the committee approve the proposed variance, it is the request of City Staff and Development Engineering that a condition of approval be included in the notice of decision that the applicant provide a closed-circuit television (CCTV) sewer inspection video and a closed-circuit television (CCTV) sewer report of the rear lot catchbasin and storm sewer pipe located within the interior side yard. This will provide City Staff an opportunity to inspect the storm sewer pipe prior to Building Permit closing, should there be any damage to the storm sewer line the applicant/owner will be required to make necessary repairs.

Existing Zoning:

The property is zoned 'Residential Single Detached F- Special Section 2888 (R1F-9-2888)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard; and
2. To provide a 0.12m (0.40 ft.) side yard setback to a an exterior stairway leading to below grade entrance in the required interior side yard, with a combined side yard setback width of 0.76m (2.50 ft.) whereas the by-law requires a minimum side yard setback of 1.2 metres (3.94 ft.) on one side and 0.6 metres (1.97 ft.) on the other side provided that the combined total for both interior lots is 1.8 metres (5.91 ft.).

**Current Situation:**

1. Maintains the General Intent and Purpose of the Official Plan

The property is designated 'Residential' in the Official Plan and 'Low/ Medium Density Residential' in the Mount Pleasant Secondary Plan (Area 51). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. Section 3.2.8.2 sets out the criteria for second units in single, semi-detached and townhouse dwellings, provision (v) requires that a second unit shall have no negative impact on stormwater management and site drainage. The location of the below grade entrance is directly above a storm sewer pipe which may adversely impact drainage of the subject property and abutting properties. The requested variances are not considered to maintain the general intent and purpose of the Official Plan.

2. Maintains the General Intent and Purpose of the Zoning By-law

Variance 1 is requested to permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard. Variance 2 is requested to permit a 0.12m (0.39 ft.) side yard

setback to a proposed below grade entrance with a combined side yard setback width of 0.76m (2.49 ft.) whereas the side yard lot requirement is 1.8m combined. The intent of the by-law in prohibiting below grade entrances in the interior side yard and requiring a minimum interior side yard setback is to ensure that sufficient space is maintained for both drainage purposes and overall access to the rear yard.

The existing below grade entrance includes risers on both sides of the landing to provide a continuous path of travel to the rear yard. However, the location of the below grade entrance is directly above a storm sewer pipe, the construction and prolonged use of the below grade entrance may damage the storm sewer pipe presenting drainage issues for the subject property and neighbouring parcels that drain into the storm sewer pipe. Subject to the recommended conditions of approval, the variances do not maintain the general intent and purpose of the by-law.

### 3. Desirable for the Appropriate Development of the Land

The request for Variance 1 is to permit an exterior stairway that would lead to a below grade entrance. Variance 2 seeks to permit an interior side yard setback that is less than what is required by the Zoning By-law. The subject property is located within an unassumed subdivision (C02W16.003/21T-16008B). The applicant has constructed the below grade entrance, risers and landing directly above a storm water pipe without obtaining Minor Variance approval or Building Permit approval. The constructed below grade entrance may negatively impact the storm sewer line causing drainage issues for the subject property and abutting parcels. Moreover, if the storm sewer pipe was damaged during construction it may impact the ability of the City to assume the subdivision (C02W16.003/21T-16008B) from the developer. Subject to the recommended conditions of approval, the variances are not considered desirable for the appropriate development of the land.

### 4. Minor in Nature

Variance 1 seeks to permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard. Variance 2 seeks to decrease the combined interior side yard setback width from 1.8 metres to 0.76 metres. The subject property is located within an unassumed subdivision (C02W16.003/21T-16008B), where the applicant has constructed a below grade entrance, risers and landing without City permission directly above the storm sewer pipe, which may of damaged the pipe and result in drainage issues of the subject property and abutting properties. Subject to the recommended conditions of approval, Variances 1 and 2 are not considered minor in nature.

Respectfully Submitted,

*Ellis Lewis*

Ellis Lewis, Planning Technician



**Appendix B:**

